

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

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|----------------|---|-----------------------|
| IN RE: | § | |
| | § | |
| Sean C. Fabich | § | Case Number: 20-52835 |
| | § | Judge Hoffman |
| | § | |
| Debtor | § | Chapter 13 |

**DEBTOR'S OBJECTION TO PROOF OF CLAIM NUMBER 1 FILED BY U.S.
BANK TRUST, N.A., AS TRUSTEE OF THE IGLOO SERIES III TRUST**

The debtor, Sean C. Fabich, by and through counsel, moves this Court for an order sustaining his objection to the proof of claim filed by U.S. Bank Trust, N.A., as Trustee of the Igloo Series III Trust (Claim No. 1). He requests the claim be allowed in the amount of \$13,033.77 fully secured. A memorandum in support of this objection is attached.

Respectfully submitted,

/s/ Michael Ryan Jones
Michael Ryan Jones (0083772)
The Jones Law Firm, LLC
7370 E. Main Street
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MEMORANDUM IN SUPPORT

Claimant name: U.S. Bank Trust, N.A., as Trustee of the Igloo Series III Trust
Date Claim was Filed: August 17, 2020
Proof of Claim Number 1

On August 17, 2020, U.S. Bank Trust, N.A., as Trustee of the Igloo Series III Trust (“U.S. Ban”) filed a proof of claim (Claim No. 1) in this case. The total amount of the claim is \$22,216.02 and it is fully secured. The claim represents a mortgage on the debtor’s residential real estate located at 223 North Monroe Avenue, Columbus, OH 43203. The claim consists of \$16,621.31 in principal balance, \$1,083.76 in interest due, \$3,086.80 in fees and costs due, and \$1,424.15 in funds advanced for escrow. In the debtor’s amended Chapter 13 plan, he proposes to pay this claim in full during the term of the plan pursuant to 11 U.S.C. § 1322(c)(2) (*see* ECF No. 15, pg. 4). The debtor proposes this treatment because the mortgage loan matured in January 2020, which was prior to the petition date.

After reviewing the claim, the debtor and counsel have determined that several payments the debtor has made have not been credited to the loan. The debtor successfully completed a prior Chapter 13 plan in August 2018. *In re Sean Fabich*, Case No. 13-22598 (Bankr. W.D. Penn. 2013). When that plan completed, the balance of the mortgage was \$16,621.31. The proof of claim in this case indicates the debtor has made no payments since the end of that plan. However, the debtor has made several payments, which are listed as follows:

| <u>Date</u> | <u>Payment Amount</u> |
|--------------------|------------------------------|
| 08/14/2018 | \$1,242.00 |
| 09/18/2018 | \$1,263.00 |
| 10/16/2018 | \$400.00 |
| 10/23/2018 | \$300.00 |
| 10/30/2018 | \$320.00 |
| 12/20/2018 | \$850.00 |
| 01/05/2019 | \$200.00 |

| | |
|------------|------------|
| 03/12/2019 | \$630.00 |
| 04/01/2019 | \$660.00 |
| 05/06/2019 | \$400.00 |
| 05/08/2019 | \$400.00 |
| 06/06/2019 | \$480.00 |
| 07/19/2019 | \$2,000.00 |

None of these payments are reflected in U.S. Bank's claim.

After factoring these payments in, the debtor asserts that the claim should consist of \$8,140.46 in principal due, \$382.36 in interest due, \$3,086.80 in fees and costs due, and \$1,424.15 in funds advanced for escrow. This totals \$13,033.77. Therefore, the debtor respectfully requests this Court sustain this objection and allow U.S. Bank's claim only in the amount of \$13,033.77 fully secured.

Respectfully submitted,

/s/ Michael Ryan Jones
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NOTICE OF OBJECTION TO PROOF OF CLAIM

Sean C. Fabich has filed an objection to your proof of claim in this bankruptcy case.

Your claim may be reduced, modified, or eliminated. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the court to reduce, modify, or eliminate your claim, then on or before **thirty (30) days from the date set forth in the certificate of service for the objection to proof of claim**, you must file with the court a response explaining your position by mailing your response by ordinary U.S. Mail to U.S. Bankruptcy Court, 170 N. High Street, Columbus, Ohio 432154 OR your attorney must file a response using the court's ECF system.

The court must **receive** your response on or before the above date.

You must also send a copy of your response either by 1) the court's ECF System or by 2) ordinary U.S. Mail to:

Sean C. Fabich
223 North Monroe Avenue
Columbus, OH 43203

AND

Michael Ryan Jones
The Jones Law Firm, LLC
7370 E. Main Street
Reynoldsburg, OH 43068

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the objection and may enter an order reducing, modifying, or eliminating your claim without further notice or hearing.

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the attached Debtor's Objection to Amended Proof of Claim Number 4 was served on the following parties on August 12, 2020:

Via CM/ECF system:

Faye D. English
Chapter 13 Trustee
10 West Broad Street
Suite 1600
Columbus, OH 43215-3419

U.S. Trustee
170 N. High Street, Suite 200
Columbus, OH 43215

By regular U.S. mail:

Sean C. Fabich
223 North Monroe Avenue
Columbus, OH 43203

BSI Financial Services
1425 Greenway Drive, Suite 400
Irving, TX 75038

Martha R. Spaner
Reisenfeld & Associates LLC
3962 Red Bank Road
Cincinnati, OH 45227

Respectfully submitted,

/s/ Michael Ryan Jones
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